

**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
TRIBAL COURT**

Tribal Council of the Little Traverse
Bay Bands of Odawa Indians,

Plaintiff,

Case No. C-028-0101

v.

Hon. Michael D. Petoskey

Tim La Croix,

Defendant.

_____ /

STIPULATION AND ORDER

To preserve Tribal resources, the Parties hereby stipulate that the advisory election on the Gaming Regulatory Statute directed under paragraph 3 of the Court's Order entered on February 9, 2001 shall be held in conjunction with the annual election taking place in June of 2001.

Date: 2/16/01

James A. Bransky
Attorney for the Plaintiff, Tribal Council

Date: 2/16/01

Tim LaCroix
Petition Presenter/Defendant

SO ORDERED.

Date: 2/16/01

Michael D. Petoskey
Tribal Judge

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Defendant.

ORDER

The Court, having reviewed all written submissions of the parties, and having heard oral argument of the parties on February 7, 2001, has reached the following determinations regarding Plaintiff's request for declaratory judgment:

1. Even if a referendum petition filed under Article IX of the Constitution contains the required number of valid signatures, if its content is not Constitutional then the referendum cannot be enacted and should not be submitted to the membership for a vote.
2. The Court declares the referendum dated January 13, 2001 submitted by Tim La Croix to amend the Election Statute to be unconstitutional because it conflicts with the criteria in the Constitution for the eligibility, election and selection of the Chairman and Tribal Council officers. Because the proposal is unconstitutional, it should not be submitted to the membership for a vote.
3. The next referendum considered by the Court dated January 13, 2001 submitted by Tim La Croix seeks to hold an election on the Gaming Regulatory Statute without any changes to the Statute that has already been enacted by Tribal Council and approved by the National Indian Gaming Commission. The Court finds, and all parties agree, that the Gaming Regulatory Statute currently in effect is Constitutional. The Court therefore finds that Article IX of the Constitution requires that this referendum be submitted to the membership for a vote. The Court also finds that under the duties and responsibilities of the Tribal Council set out in Article VII of the Constitution, the Tribal Council retains the authority to amend this Statute regardless of the outcome of the election. Therefore, the ballot must explicitly instruct voters that this is a non-

binding advisory election that does not limit the rights of Tribal Council under the Constitution, specifically Article VII, sections m and n, to make future amendments to the statute as it may deem necessary.

4. By petition dated January 13, 2001 submitted by Tim La Croix, the petitioners requested the Tribal Council to "Submit the proposed change to the Waganakising Odawak Tribal Constitution Article VII, Section 1(n) to a Referendum as required under Article IX of the Tribal Constitution." The Court finds that because the Amendment provision is contained in Article X, which is a separate and distinct provision from Article IX, the referendum procedure set out in Article IX cannot be used to amend the Constitution. The Court further finds that the Reaffirmation Act, 25 USC § 1300k, explicitly states that the Indian Reorganization Act, 25 USC § 461 *et seq.* applies to LTBB, and that Article X contains no specific procedure for amending the Constitution. The Court therefore concludes that the Constitution can only be amended through the process for amendment by election conducted by the United States Secretary of the Department of the Interior under the Indian Reorganization Act and applicable federal regulations.

SO ORDERED.

Date: 2/9/01

Honorable Michael D. Petoskey
Chief Judge

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